

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**ROBERT J. MUELLER, DEEPROOT FUNDS
LLC (a/k/a dprt Funds, LLC), AND POLICY
SERVICES INC.,**

Defendants,

-and-

**DEEPROOT TECH LLC, DEEPROOT
PINBALL LLC, DEEPROOT STUDIOS LLC,
DEEPROOT SPORTS & ENTERTAINMENT
LLC, AND DEEPROOT RE 12621 SILICON DR
LLC,**

Relief Defendants.

Civil Action No.: 5:21-cv-785-XR

DECLARATION IN SUPPORT OF PLAINTIFF'S MOTIONS *IN LIMINE*

I, Charlie Divine, pursuant to 28 U.S.C. § 1746(2), do hereby declare under the penalty of perjury the following:

1. I am Trial Counsel to the U.S. Securities and Exchange Commission (the "SEC") and I am appearing for the SEC in this case. As such, I am familiar with the facts and circumstances of this matter.

2. Prior to filing the Complaint in this matter, the SEC investigated and as part of that investigation gathered publicly available documents and subpoenaed documents, materials, and testimony from relevant parties. After filing the Complaint, using the tools of civil

discovery, the SEC gathered additional documents and other materials, and took deposition testimony. The defendants and third parties produced documents and other materials to the SEC in various formats, including electronically, in paper, and by emailed PDF, among others.

3. I and my colleagues at the SEC have been directly involved with the collection of documents and other materials in the litigation in this matter.

4. Attached hereto as Exhibit 1 are true and correct copies of excerpts from the June 16, 2023, deposition of Craig Rushforth.

5. Attached hereto as Exhibit 2 are true and correct copies of excerpts from the July 13, 2023, deposition of Andrew Federico.

6. Attached hereto as Exhibit 3 are true and correct copies of excerpts from the July 12, 2023, deposition of Dennis Concilla.

7. Attached hereto as Exhibit 4 are true and correct copies of excerpts from the March 9, 2023, deposition of Robert Mueller.

8. Attached hereto as Exhibit 5 is a true and correct copy of a December 16, 2022, letter from Mueller to the SEC making a limited waiver of privilege.

9. Attached hereto as Exhibit 6 are true and correct copies of excerpts from the June 15, 2023, deposition of Ken Abramson.

10. Attached hereto as Exhibit 7 is a true and correct copy of a June 7, 2023, letter from the SEC to Mueller's counsel requesting full disclosure of Mueller's proposed experts.

11. Attached hereto as Exhibit 8 are true and correct copies of excerpts from the February 16, 2023, deposition of Scott Allen.

12. Attached hereto as Exhibit 9 are true and correct copies of excerpts from the June 23-24, 2021, SEC investigative testimony of Robert Mueller.

13. Attached hereto as Exhibit D61 is a true and correct copy of an April 4, 2023, Declaration of Dennis Concilla.

14. Attached hereto as Exhibit D92 is a true and correct copy of a September 7, 2022, Declaration of Gerald Wik.

15. Attached hereto as Exhibit D93 is a true and correct copy of a September 13, 2022, Declaration of George C. Williams.

16. Attached hereto as Exhibit P33 is a true and correct copy of Mueller's April 6, 2023, Expert Designations and cover letter.

17. Attached hereto as Exhibit P106 is a true and correct copy of Scott Allen's October 7, 2020, Resignation Memo.

18. Attached hereto as Exhibit P345 is a true and correct copy of a September 7, 2022, Declaration of Kenneth Abramson.

19. I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 15, 2023

Respectfully submitted,

/s/ Charlie L. Divine

Charlie L. Divine

SECURITIES AND EXCHANGE COMMISSION

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ATTORNEY FOR PLAINTIFF SECURITIES
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